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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/756,086	01/13/2004	Christopher L. Oesterling	GP-304326 (2760/153)	3111

7590 01/03/2007
Frank C. Nicholas
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EXAMINER

REGO, DOMINIC E

ART UNIT	PAPER NUMBER
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2618

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/03/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/756,086

Applicant(s)

OESTERLING, CHRISTOPHER L.

Examiner

Dominic E. Rego

Art Unit

2618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 11-15 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Since the claimed computer usable medium is not necessarily a computer readable medium, and the claimed "including computer program code" is not necessarily encoded or embodied or stored on the computer readable medium, there is no interrelationship between the claimed medium with the rest of the computer to permit the program's functionality to be realized. Thus, claims 11-15 are non-statutory.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Messina et al. (US Patent Application Publication #2002/0065037).

Regarding claims 1, 11, and 16, Messina teaches a method of initiating a vehicle data upload function at a plurality of mobile vehicles, the method comprising:

monitoring a satellite radio system broadcast channel for a call center initiated vehicle data upload command signal at the plurality of mobile vehicles; determining at the plurality of mobile vehicles whether the vehicle data upload command signal corresponds to a mobile vehicle (Paragraphs 0022-0024);

extracting the vehicle data upload command signal from the broadcast channel based on the determination; and performing a vehicle data upload function based on the extracted vehicle data upload command signal (Paragraphs 0025-0026).

Regarding claims 2,12,and 17, Messina teaches the method further comprising:
determining the plurality of mobile vehicles at a call center based on a service criterion (Paragraph 0006).

Regarding claim 3, Messina teaches the method wherein the vehicle data upload function comprises a vehicle data type (Paragraph 0024).

Regarding claim 4, Messina teaches the method wherein the vehicle data upload command signal comprises a plurality of telematics unit identifiers (Paragraph 0024).

Regarding claims 5,13,and 18, Messina teaches the method wherein performing the vehicle data upload function comprises:

initiating a vehicle data upload call from a cell phone (Paragraph 0031) in the plurality of mobile vehicles to a call center in response to the vehicle data upload command signal (*Paragraph 0024: Messina teaches the down link processor 216 receives command and control signals 220 and 222 from the receiver device partitioning system 212 and the telematics interface device 210 of the telematics interface device*

210, respectively. In addition, the down link processor 216 generates an output signal 224 that includes raw data stream (.about.4 Mbps) which also contains the additional telematics data which must be processed separately by the receiver device partitioning system 212 to provide this data to the user).

Regarding claims 6,14,19, Messina teaches the method wherein performing the vehicle data upload function comprises: initiating a vehicle data storage in the plurality of mobile vehicles in response to the vehicle data upload command signal (Paragraph 0027).

Regarding claim 7, Messina teaches the method wherein the vehicle data upload command signal is associated with a vehicle type (Paragraph 0010).

Regarding claim 8, Messina teaches the method wherein the vehicle data upload command signal is generated in response to a geographic based diagnostic event (Paragraph 0011).

Regarding claim 9, Messina teaches the method wherein the vehicle data type is selected from a group consisting of vehicle performance data, vehicle diagnostic data, vehicle status data, and vehicle operational data (Paragraph 0011).

Regarding claims 10,15, and 20, Messina teaches the method wherein determining at the plurality of mobile vehicles whether the vehicle data upload command signal corresponds to the mobile vehicle comprises:

comparing the plurality of telematics unit identifiers of the vehicle data upload command signal to a telematics unit identifier the mobile vehicle; and detecting if one of the plurality of telematics unit identifiers of the vehicle data upload command signal

matches the telematics unit identifier of the mobile vehicle (*Paragraphs 0006, 0010, 0024-0025: Messina teaches telematics interface device 210 receives command signals from a satellite service and detecting if a unique electronic serial number (ESN) or a unique alpha-numeric identification name of a radio receiver in telematics interface device 210 matches and the receiver device partitioning system 212 extracts the telematics-specific data from the 4 Mbps bit stream of output signal 224*).

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Dance et al. (US Patent #6,385,532) teaches accurate vehicle navigation.

Kolls (US Patent #6,895,310) teaches vehicle related wireless scientific instrumentation telematics.

Rigo et al. (US Patent Application Publication #2002/0049535) teaches wireless interactive voice-actuated mobile telematics system.

Olsen et al. (US Patent Application Publication #2004/0023645) teaches telematic programming logic control unit and method of use.

Braatz et al. (US Patent Application Publication #2002/0120728) teaches method and apparatus for network-enablement of devices using device intelligence and network architecture.

Watters et al. (US Patent Application Publication #2001/0002822) teaches cellular terminal location using GPS signals in the cellular band.

Giaccherini et al. (US Patent Application Publication #2002/0085588) teaches method for security distributing and updating digital content.

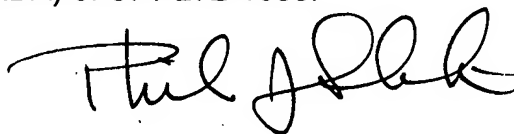
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dominic E. Rego whose telephone number is 571-272-8132. The examiner can normally be reached on Monday-Friday, 8:30 am-5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung can be reached on 571-272-7882. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Dominic E. Rego



PHILIP J. SOBUTKA
PATENT EXAMINER